

AMENDED IN ASSEMBLY MARCH 27, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1032

Introduced by Assembly Member Wolk

February 22, 2007

An act to amend Sections 5653 and 5653.7 of the Fish and Game Code, relating to aquatic species.

LEGISLATIVE COUNSEL’S DIGEST

AB 1032, as amended, Wolk. Dredging: closed waters: native trout: aquatic *and amphibian* species.

Existing law prohibits the use of any vacuum or suction dredge equipment by any person in any river, stream, or lake of this state without a permit issued by the Department of Fish and Game. Under existing law, it is unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, that are closed to the use of vacuum or suction dredges. The department is authorized to close areas otherwise open for dredging and for which permits have been issued if there is an unanticipated water level change and the department determines that closure is necessary to protect fish and wildlife resources.

Existing law authorizes the Fish and Game Commission to designate “Heritage Trout Waters” to recognize the beauty, diversity, historical significance, and special values of California’s native trout, *as defined*.

This bill would *close designated heritage trout waters to suction dredging, except as authorized by permit approved by the commission. The bill would prohibit the commission from approving a permit unless it finds that the subject dredging operation will not be deleterious to certain species. The bill would authorize the department to close an*

area to dredging *otherwise opened for dredging and for which a permit has been issued*, without regard to water level, if ~~it~~ *the department* determines that it is necessary to protect fish and wildlife resources, including ~~wild trout stocks within designated heritage trout waters, and~~ *native aquatic or amphibian* species listed by the commission as endangered or threatened under the California Endangered Species Act, *or species identified by the department as species of special concern.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5653 of the Fish and Game Code is
2 amended to read:

3 5653. (a) The use of any vacuum or suction dredge equipment
4 by any person in any river, stream, or lake of this state is prohibited,
5 except as authorized under a permit issued to that person by the
6 department in compliance with the regulations adopted pursuant
7 to Section 5653.9. Before any person uses any vacuum or suction
8 dredge equipment in any river, stream, or lake of this state, that
9 person shall submit an application for a permit for a vacuum or
10 suction dredge to the department, specifying the type and size of
11 equipment to be used and other information as the department may
12 require.

13 (b) Under the regulations adopted pursuant to Section 5653.9,
14 the department shall designate waters or areas wherein vacuum or
15 suction dredges may be used pursuant to a permit, waters or areas
16 closed to those dredges, the maximum size of those dredges that
17 may be used, and the time of year when those dredges may be
18 used. If the department determines, pursuant to the regulations
19 adopted pursuant to Section 5653.9, that the operation will not be
20 deleterious to fish, it shall issue a permit to the applicant. If any
21 person operates any equipment other than that authorized by the
22 permit or conducts the operation in any waters or area or at any
23 time that is not authorized by the permit, or if any person conducts
24 the operation without securing the permit, that person is guilty of
25 a misdemeanor.

26 (c) The department shall issue a permit upon the payment, in
27 the case of a resident, of a base fee of twenty-five dollars (\$25),
28 as adjusted under Section 713, when an onsite investigation of the

project size is not deemed necessary by the department, and a base fee of one hundred thirty dollars (\$130), as adjusted under Section 713, when the department deems that an onsite investigation is necessary. In the case of a nonresident, the base fee shall be one hundred dollars (\$100), as adjusted under Section 713, when an onsite investigation is not deemed necessary, and a base fee of two hundred twenty dollars (\$220), as adjusted under Section 713, when an onsite investigation is deemed necessary.

(d) It is unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, that are closed to the use of vacuum or suction dredges, including, but not limited to, waters closed by the department pursuant to Section 5653.7.

SEC. 2. Section 5653.7 of the Fish and Game Code is amended to read:

5653.7. (a) *Heritage trout waters designated pursuant to Section 7260 shall be closed to suction dredging, except as authorized by permit approved by the commission. The commission shall not approve a permit unless it finds that the dredging operation will not be deleterious to wild trout and steelhead stocks, or to other native aquatic or amphibian species known to exist in the designated waters, that are listed under state or federal law as threatened or endangered or have been identified by the department as a species of special concern.* ~~¶~~

(b) *Notwithstanding any other provision of law, if the department determines that it is necessary to protect fish and wildlife resources, including, but not limited to, wild trout stocks within heritage trout waters designated by the commission pursuant to Section 7260, and aquatic species listed by the native aquatic or amphibian species listed by the commission pursuant to Section 2070 or species identified by the department as species of special concern, the department may close areas that were otherwise opened for dredging and for which permits were issued pursuant to Section 5653.*